

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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LUIS GONZALEZ and JULIO SANCHEZ  
ESPINOZA,

Plaintiffs,

-against-

H.K. SECOND AVE RESTAURANT INC.,  
SHAHEEN KHAN, and MAHA KHONDOKER,

Defendants.

1:20-cv-4271-(MKV)

**ORDER GRANTING LEAVE TO**  
**AMEND**

MARY KAY VYSKOCIL, United States District Judge:


On November 30, 2020, Plaintiffs obtained from the Clerk of Court certificates of default, [ECF Nos. 26-28], and have now moved for default judgment against Defendants. [ECF No. 32]. The Court now is in receipt of a letter [ECF No. 41] filed by Plaintiffs dated November 3, 2021, seeking leave to amend the Complaint [ECF No. 1] to include “supplementary information” with respect to the employer-employee relationship in this case. “If[ ] after a default has been entered against a defendant, a plaintiff files an amended complaint which becomes operative, the entry of default becomes moot,” a motion for default judgment based on that default will be denied as moot, and the Clerk’s entries of default will be stricken. *Rattray v. Cadavid*, No. 17 CIV. 8560 (PGG), 2018 WL 11222583, at \*1 (S.D.N.Y. Aug. 31, 2018) (collecting cases).

IT IS HEREBY ORDERED that Plaintiffs are granted leave to file an amended complaint, which must be filed on or before November 19, 2021. Within 30 days of filing the amended complaint, Plaintiffs shall serve Defendants with the amended complaint and file proof of service on the docket.

IT IS FURTHER ORDERED that the currently pending Motion for Default Judgment [ECF No. 32] is denied, and the conference scheduled for November 10, 2021 is cancelled. The Clerk of the Court is requested to strike the certificates of default [ECF Nos. 26-28].

**SO ORDERED.**

**Date: November 4, 2021**  
**New York, NY**

  
**MARY KAY VYSKOČIL**  
**United States District Judge**